

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ELASTICSEARCH, INC., a)
Delaware corporation,)
ELASTICSEARCH B.V., a)
Dutch corporation,)
Case No.
Plaintiffs,) 4:19-cv-05553-YGR
vs.)
Floragunn GmbH, a German)
corporation,)
Defendant.)

** HIGHLY CONFIDENTIAL **
** UNDER PROTECTIVE ORDER **
** ATTORNEY'S EYES ONLY **

REMOTE VIDEOTAPED DEPOSITION
OF
URI BONES
Wednesday, February 17, 2021
Amsterdam, Netherlands

Reported by: B. Suzanne Hull, CSR No. 13495

APPEARANCES

For Plaintiffs: O'Melveny & Myers, LLP
By MR. DAVID R. EBERHART
Attorney at Law
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For Defendant: Kwun Bhansali Lazarus, LLP
By MR. MICHAEL S. KWUN
Attorney at Law
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San Francisco, California 94111
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The Videographer: Craig Bates

1 A. Correct. 08:28:55

2 Q. And SOLR was paid for that work; isn't that 08:28:55

3 correct? 08:28:59

4 MR. EBERHART: Objection. Vague. 08:29:00

5 THE WITNESS: Sorry. 08:29:01

6 SOLR -- 08:29:03

7 BY MR. KWUN: 08:29:05

8 Q. Don't worry. Let me -- let me re-ask the 08:29:05

9 question. I asked that incorrectly. 08:29:09

10 A. Okay. 08:29:09

11 Q. And Orange 11 was paid for the work that you 08:29:11

12 did that used SOLR or Lucene. 08:29:13

13 Isn't that true? 08:29:17

14 A. Yes. 08:29:18

15 Q. The money that Orange 11 was paid when it 08:29:18

16 used SOLR or Lucene, none of that money went to the 08:29:23

17 Apache Software Foundation, did it? 08:29:28

18 A. No. 08:29:32

19 Q. You are a founder of Elastic. 08:29:43

20 Isn't that true? 08:29:46

21 A. Yes. 08:29:47

22 Q. And when I say Elastic, I'm referring to the 08:29:48

23 company or companies known as Elasticsearch. 08:29:52

24 Do you understand that? 08:29:55

25 A. Yes. 08:29:57

1 records. 08:41:39

2 Q. Was that phone call before or after the 08:41:40

3 general availability release of Shield? 08:41:45

4 A. I don't remember. I think so, but I don't 08:41:49

5 remember exactly. 08:41:58

6 Q. Why were you having a telephone call with 08:41:59

7 Mr. Saly? 08:42:03

8 A. When he released the -- I don't remember if 08:42:05

9 it was a statement or how I -- I -- I got to know 08:42:14

10 that it was a -- work on it or he got to work on it. 08:42:18

11 At that time we were -- we were obviously a small 08:42:26

12 team building a security product, and we were 08:42:29

13 interested in anyone that has experience with 08:42:33

14 Elasticsearch -- development experience in 08:42:39

15 Elasticsearch and is a security expert; so he was 08:42:43

16 a great candidate to talk with -- to -- to see -- to 08:42:47

17 gauge it. 08:42:52

18 Q. What did you think he was a candidate for? 08:42:53

19 A. Potentially hiring to the security team. 08:42:59

20 Q. How long was the telephone call that you had 08:43:06

21 with Mr. Saly when you met him? 08:43:16

22 A. I don't remember exactly. 08:43:19

23 Q. Was it more than an hour? 08:43:23

24 A. Yes. 08:43:27

25 Q. Did you discuss Elastic's Shield plugin on 08:43:34

1	that telephone call?	08:43:38
2	A. Yes.	08:43:40
3	Q. What do you remember about your discussion	08:43:42
4	with Mr. Saly about Elastic Shield plugin?	08:43:47
5	A. When the -- when we talked about his project	08:43:56
6	that he was working on, he told me that he noticed	08:44:05
7	that we implemented things a little bit different or	08:44:12
8	in a different layer -- we implemented security in	08:44:17
9	a different layer than he did -- than he did. And	08:44:21
10	when I asked him how does he know that, he told me	08:44:24
11	that they decompiled our code. And then we --	08:44:27
12	I don't know. I told him, obviously, that it was not	08:44:35
13	allowed, but it is not -- it was not a focus of the	08:44:38
14	conversation.	08:44:43
15	Q. What did you tell him about it not being	08:44:43
16	allowed to decompile Shield?	08:44:50
17	A. It is just what I just said. It was	08:44:54
18	a comment that I just made as a response to his	08:44:57
19	statement that they decompiled the code that he was	08:45:01
20	not actually allowed to do that. But, again, that	08:45:04
21	was not the -- the focus of the conversation.	08:45:08
22	Q. Was there any further discussion about	08:45:10
23	decompilation of the Shield code?	08:45:14
24	A. No.	08:45:19
25	Q. Did you believe that it was not allowed to	08:45:20

1 decompile the Shield code? 08:45:27

2 A. I knew it was not allowed to decompile the 08:45:32

3 Shield code. 08:45:35

4 Q. Okay. What do you mean by that? 08:45:36

5 A. This was -- we built Shield. I -- I -- 08:45:39

6 I started Shield as a product. I was the first 08:45:49

7 engineer on it, and we gave it -- it was 08:45:53

8 a proprietary product with a proprietary license. 08:45:55

9 And part of this license forbids you from, you know, 08:46:00

10 compiling -- decompiling the code -- the -- the -- 08:46:05

11 the JAR file, which is basically to decompile the 08:46:08

12 JAVA code. 08:46:13

13 Q. Have you mentioned to anyone that Mr. Saly 08:46:14

14 told you that he had decompiled the Shield code? 08:46:26

15 MR. EBERHART: I'll object to the extent it 08:46:30

16 calls for communications with counsel. 08:46:32

17 I will instruct you not to answer as to 08:46:33

18 communications with counsel, whether inhouse or 08:46:36

19 outside. To the extent you had responsive 08:46:38

20 communications other than with counsel, you can go 08:46:42

21 ahead and answer. 08:46:45

22 THE WITNESS: Yes. 08:46:46

23 BY MR. KWUN: 08:46:47

24 Q. Who have you told that Mr. Saly told you 08:46:47

25 that he had decompiled the Shield code, leaving aside 08:46:50

1 conversations with counsel? 08:46:54

2 A. I clearly remember telling it to Shay Banon, 08:46:57

3 which is the name of the CEO. And I think also other 08:47:04

4 people knew it, but I don't -- I don't remember -- 08:47:13

5 I don't explicitly remember -- vividly remember 08:47:16

6 talking -- like, talking to them; so let's keep it 08:47:20

7 with Shay Banon. 08:47:26

8 Q. I'm going to be asking you a number of 08:47:28

9 questions that -- where I don't want to know anything 08:47:30

10 about your conversations with counsel; so unless 08:47:32

11 I ask otherwise, please understand my questions not 08:47:36

12 to include in your response your communications with 08:47:39

13 counsel. 08:47:41

14 Okay? Do you understand that? 08:47:42

15 A. Yes. 08:47:43

16 Q. What conversations have you had with people 08:47:44

17 at Elastic about Mr. Saly and the possibility that he 08:47:57

18 had decompiled Shield code? 08:48:04

19 MR. EBERHART: Object. I'm going to 08:48:08

20 instruct him not to answer as to conversations with 08:48:10

21 counsel. 08:48:12

22 Otherwise you can answer. 08:48:13

23 And object as asked and answered. 08:48:15

24 THE WITNESS: Beyond the -- just mentioning 08:48:18

25 it to Shay, I don't remember other specific 08:48:22

1 conversations around that topic. 08:48:26

2 BY MR. KWUN: 08:48:28

3 Q. Leaving aside any questions -- strike that. 08:48:34

4 Leaving aside any communications with 08:48:39

5 counsel, have you had any discussions with anyone at 08:48:40

6 any time about the possibility that Hendrik Saly, or 08:48:46

7 others at floragunn, had decompiled Elastic's code? 08:48:53

8 MR. EBERHART: Objection. Vague. Asked and 08:49:02

9 answered. 08:49:03

10 THE WITNESS: Later on, quite after -- 08:49:07

11 quite -- yeah. It is quite some time past since 08:49:11

12 the -- the phone call I had with the -- with the -- 08:49:16

13 Hendrik, at some point we started talking about it 08:49:20

14 more as a -- our engineers started noticing 08:49:27

15 suspicious similarities between their code and our 08:49:34

16 code. 08:49:39

17 BY MR. KWUN: 08:49:39

18 Q. Have your engineers examined floragunn's 08:49:47

19 source code? 08:49:52

20 MR. EBERHART: I'll object and instruct not 08:49:53

21 to answer as to any work product investigation taken 08:49:55

22 at the direction of counsel, whether inhouse or 08:49:58

23 outside counsel. 08:50:00

24 To the extent that you can answer 08:50:02

25 excluding -- excluding such examinations, you can go 08:50:04

1 STATE OF CALIFORNIA)
) ss.

2 COUNTY OF KERN)
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4

5 I, B. Suzanne Hull, a Certified Shorthand
6 Reporter in the State of California, holding
7 Certificate Number 13495, do hereby certify that
8 URI BONES, the witness named in the foregoing
9 deposition, was by me duly sworn; that said
10 deposition, was taken Wednesday, February 17, 2021,
11 at the time and place set forth on the first page
12 hereof.

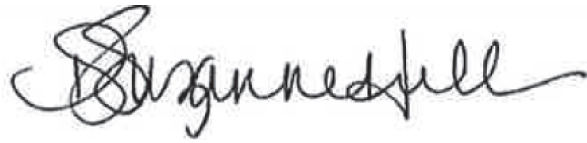
13 That upon the taking of the deposition, the
14 words of the witness were written down by me in
15 stenotypy and thereafter transcribed by computer
16 under my supervision; that the foregoing is a true
17 and correct transcript of the testimony given by the
18 witness.

19 Pursuant to Federal Rule 30(e), transcript
20 review was requested.

21 I further certify that I am neither counsel
22 for nor in any way related to any party to said
23 action, nor in any way interested in the result or
24 outcome thereof.

25 ///

1 Dated this 18th day of February, 2021, at
2 Bakersfield, California.

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5 B. Suzanne Hull, CSR No. 13495
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